



UNITED STATES PATENT AND TRADEMARK OFFICE

mv
UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/684,008	10/06/2000	Timothy A.M. Chuter	ENDOV-54176	9810

24201 7590 04/19/2004

FULWIDER PATTON LEE & UTECHT, LLP
HOWARD HUGHES CENTER
6060 CENTER DRIVE
TENTH FLOOR
LOS ANGELES, CA 90045

EXAMINER

CHATTOPADHYAY, URMI

ART UNIT	PAPER NUMBER
----------	--------------

3738

21

DATE MAILED: 04/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/684,008

Applicant(s)

CHUTER, TIMOTHY A.M.

Examiner

Urmi Chattopadhyay

Art Unit

3738

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 January 2004.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,7 and 11-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,3 and 7 is/are allowed.
- 6) ☒ Claim(s) 11-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 October 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

Art Unit: 3738

DETAILED ACTION

Response to Amendment

1. The amendment filed 1/21/04 has been entered as Paper No. 20. Changes to claim 11 have been approved by the examiner.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 11-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Taheri (USPN 6,099,548 as cited in applicant's IDS).

Taheri discloses a method for deploying an aortic arch graft with all the elements of claim 11. See Figures 13-15 and column 4, lines 60-66 and column 5, lines 30-67 for a method of implanting a modular graft device (20) within vasculature at an implantation site, the modular graft device including a bifurcated main body (Figure 14) having a first end portion (distal end of graft) and a second end portion including a first leg and a second leg (branches of graft). The bifurcated main body is inserted within vasculature at a location remote (femoral artery) from an implantation site and a traction force is applied to the first end (distal end) of the main body. See column 4, lines 45-66 and column 5, lines 57-60 for strings (32) extending from the carotid

Art Unit: 3738

UC artery pulling the graft (20) up towards the aortic arch, and then distal movement of stylets (35) pulling strings (32) looped through openings (23) in the distal end of graft (20) to further move graft (20) over the aortic arch ^{and} ~~an~~ down to the ascending aorta. Both steps employ applying a traction force to the distal end of the graft to advance the main body from the remote location to the implantation site and place the main body in a desired position within the vasculature. See column 5, lines 64-65 for inserting a radially self-expanding (column 5, lines 7-13) device within one of the first and second legs.

Claim 12, see column 5, lines 64-65 for inserting radially self-expanding device within each of the first and second legs.

Claim 13, see Figures 10-12 for radially self-expanding device inserted within first end portion of the bifurcated graft.

Claims 14-16, see column 5, lines 52-55 for applying traction force, via strings (32), on the first and second legs.

Claim 17, see column 5, lines 61-67 for the main body lacking self-expanding structure attached thereto prior to placement within vasculature.

Claim 18, see Figure 14 for the main body being a graft (20).

Claims 19 and 20, see Figures 13-15 and column 5, lines 30-67 for main body and attachment system placement by direct percutaneous insertion.

Allowable Subject Matter

4. Claims 1, 3 and 7 are allowed.

Art Unit: 3738

Response to Arguments

5. Applicant's arguments with respect to claims 11-20 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Art Unit: 3738


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ms. Urmi Chattopadhyay whose telephone number is (703) 308-8510 and whose work schedule is Monday-Friday, 9:00am – 6:30pm with every other Friday off. The examiner's supervisor, Corrine McDermott, may be reached at (703) 308-2111. The group receptionist may be reached at (703) 308-0858.

Should the applicant wish to send a fax for official entry into the file wrapper the Group fax number is (703) 872-9306. Should applicant wish to send a fax for discussion purposes only, the art unit fax number is (703) 308-2708.



Urmi Chattopadhyay

Art Unit 3738



David J. Isabella
Primary Examiner